

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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| MICHIGAN ASS'N OF PUBLIC SCHOOL |) | |
| ACADEMIES, et al. |) | |
| |) | Civil Action No. 1:22-cv-00712 |
| Plaintiffs |) | |
| |) | Hon. Paul L. Maloney |
| v. |) | U.S. District Court Judge |
| |) | |
| U.S. DEPARTMENT OF EDUCATION, et al. |) | Hon. Sally J. Berens |
| |) | U.S. Magistrate Judge |
| Defendants |) | |

**DEFENDANTS' BRIEF IN SUPPORT OF MOTION FOR STAY AND EXTENSION OF
TIME TO RESPOND TO COMPLAINT**

Defendants' response to plaintiffs' Complaint, ECF No. 1, is due on October 14, 2022. Plaintiffs have advised defendants that, shortly after that date, they intend to file an amended complaint, or a motion for leave to file an amended complaint. In light of plaintiffs' intentions, defendants request that the Court stay and extend the time for defendants to file a response to the complaint until after plaintiffs have filed an amended complaint or the Court has denied leave for plaintiffs to file an amended complaint.

Plaintiffs in this action seek to challenge rules adopted by the U.S. Department of Education (“Department”) in July 2022 establishing priorities, requirements, definitions, and selection criteria for federal grants under the Department’s Expanding Opportunity Through Quality Charter Schools Program (CSP). 87 Fed. Reg. 40,406 (July 6, 2022). Plaintiffs filed their original Complaint, ECF No. 1, on August 8, 2022. The summons and complaint were delivered to the U.S. Attorney’s Office on August 15, 2022. Under Rule 12(a)(2) of the Federal Rules of Civil Procedure, defendants’ response to the complaint—which may take the form of an answer or a motion to dismiss—is due on October 14, 2022. Plaintiffs have advised defendants that,

shortly after October 14, 2022, they intend to file an amended complaint, or a motion for leave to file an amended complaint.

Defendants request that the Court stay and extend the time for defendants to file a response to the original complaint, based on Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure and the Court's inherent powers. It would be wasteful for defendants to file a response to the original complaint now, because an amended complaint would supersede the original complaint and would likely make it necessary for defendants to file a separate response to the amended complaint, or at least revise their response to the complaint.

Once plaintiffs have finished preparing their proposed amended complaint, the parties can confer further, and defendants can determine their position on plaintiffs' motion for leave to amend their complaint.

Defendants accordingly request that the Court stay and extend the time for defendants to file a response to the complaint until one of the following has occurred: (1) plaintiffs have filed an amended complaint or (2) the Court has denied leave for plaintiffs to file an amended complaint.

Date: October 4, 2022

Respectfully submitted,

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